

FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

2017 SEP -5 PM 1:40

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

PHILIP EMIABATA (DBA.PHILEMA BROTHERS))
Plaintiff)

V)

PROGRESSIVE INSURANCE)
Defendant(1))
PAM, TRANSPORTATION)
Defendant(2))

CASE NO

1:17 CV 1859

COMPLAINT

JUDGE OLIVER

PHILIP EMIABATA, Plaintiff Complaint of Defendant and Cause of Action
Shows:

MAG. JUDGE PARKER

DISCOVERY

Plaintiff, intends to conduct discovery under level pursuant to United States District Court of Federal Rules and Civil Procedure and States

Laws.

1. Plaintiffs, Philip Emiabata is the owner of Volvo-Tractor, Commercial Vehicle. Citizen of the State of Texas.
2. The first defendant is Progressive Insurance. It is a corporate defendant that does business in all the 48 States including Ohio. That Maintains its principal place of business in Ohio State where it engages in extensive, Insurance business and Ohio Corporation.
3. The second defendant it is also a Corporate defendant is Arkansas Corporation. That maintains its principal place of business in Ohio State. Where it has its headquarters, and where it engages in extensive Transportation business.
4. For diversity Jurisdiction purposes , Federal court have a diversity Jurisdiction because there are Complete Diversity exists between all of the Plaintiff's and all the defendants.
5. Jurisdiction and Venue : This is a civil action for Compensatory and Punitive damages as well as Penalties, Cost and Remedies for losses incurred by Plaintiff as a result of Wrongful act of Bad-

faith dealing, Negligence Engaged in by Defendants. With the sum seeking by plaintiff above \$100,000.00.

6. This concerns dated accident claim May 11, 2016. With Progressive Insurance Claim / Event #: 16- 3542802 Philema Brothers (dba).and PAM. Transportation. That rendered my Commercial Vehicle inoperable by this said cash.
7. Facts and background (a) On May 11, 2016 Plaintiff Commercial Vehicle Volvo Tractor was park in a truck gas station . TA. At 145 Richwood road in Kentucky . when the second defendant driver Negligence back into my park truck ,due to defendant careless conduct without taking care in backing up a tractor trailer he cash into my Vehicle. After severe tried and this second defendant notice he have cash into my park Volvo tractor he ran away, leaving the scene of the accident.
8. This said cash by the second defendant rendered my vehicle inoperable and need to be towed for Repair. Very important one good Samaritan who observe the accident saw the defendant PAM Transportation leaving the scene of this said accident. Went into the gas-station at the front desk to report the accident and give the number of the truck and the name of the truck company to be PAM. Transportation with truck number to be 34776. Then store manager use the information on my truck call me, that I should be coming to the truck stop that is TA. And said PAM Transportation truck cash into my truck.
9. Getting to the truck stop the Manager passed all the formation to me , I reported the accident to POLICE and I was given the report #16003553. I call PAM Transportation On 03/11/2016 time 6.35 pm ET.one PAM representative Bruce pick up the phone I told him all about the accident .he response to me that none of their truck stop at TA gas station in 145 Richwood KENTUCKY. I told him If he makes me go to court that I will subpoena the truck tricking system and the gas station video we will find out if this said truck never came to this said TA. He told me to hold on after some time he came back on line and said yes the said truck was at the TA gas Station and gave me their safety department telephone # 800-289-5156 and said I should call and ask of one Missy on Monday morning ,03/14/2016. She Call me ask me to send her the photo of the accident truck this I did after waiting for some time no response from PAM then I filed a claim with my insurance the first defendant ,Progressive insurance
10. The first defendant Progressive Insurance gave my Claim # 16-3542802 on about September 13, 2016 I got estimate from a Reputable garage or body shop that is Volvo dealership i gave Progressive Insurance , this estimate for parts ,labor and storage that is \$27,493.91 minus \$ 820.96 already paid balanced \$ 26,672.95. Items, parts cost \$16,514.91, Labor 40.6 Hours cost \$3,248.00, paint material cost \$50.00 Painting cost\$ 1,081.00 and Storage starting from the date of inspection by Progressive Insurance one of your representative, one Kenneth W .Barber on 10/12/16.which is \$20.00 per day 11 months \$ 6,600.00. Total balance due that required to restore the tractor to the condition it was in before the accident or to restore my Vehicle to pre-accident condition is \$ 26,672.92.

11. About 11 months now Progressive Insurance engage in Delay tactics to settle a rightful claim as seen in his letter dated Nov,29th 2016 paragraph 3. Here you stated....."Your vehicle damages" that I witness another vehicle hit both side of my vehicle . Here Progressive particularly and obvious misrepresent the truth statement which is a Fraudulent Misrepresentation . when Progressive Insurance have the information along that it was one good Samaritan that reported this accident. This Act of engage in Fraudulent Misrepresentation was done to delay this claim settlement, when I asked why he refusing the estimate the plaintiff submitted to him., the defendant Progressive told me that my estimate was too high from the price of standard within the industry ,I asked the first defendant to give me the telephone or address of this said Reputable Garage or body shop that is willing to perform the repair for the settlement the Progressive is offering also where quality used parts place I can purchased use parts for the estimate Progressive Insurance is offering for used parts.
12. So that I can go and purchased the used parts according to his estimate, to complete the repair for this said accident vehicle. For about 9 months. The first defendant refused to give me the place address or Telephone . This Progressive conducts SO-FAR is particularly egregious and is coursing my business damages,
13. PAM, the second defendant due to is careless and Negligent without taking good care, he cash into my vehicle parked and is action of Fraudulent Negligent by leaving the scene of the accident. And Progressive act or omission of both defendants causes grievous damage to me/my business
14. Progressive Insurance is in violation of the duty of good Faith and fair dealing. By refusing to pay a valid claim, using delay tactics to settle a rightful Claim, improper Investigation, Wrong Valuation of the Damaged Property, Engaging in Delay Tactics to settle a claim. Hence Progressive is in Breach of Contract we both entered to protect my vehicle.
15. I am seeking for Compensatory Damages for the breach of Contract by the Progressive Insurance for losses due to loss profits Opportunity suffered by plaintiff before awarding damage,
16. Progressive: Christopher Thompson (Commercial Claim Adjuster) asked me to file for or make another Claim before he can consider fully my claim , he said it was two difference accident I told him that can't evolve in insurance fraud all I know is one accident. That was reported by the good Samaritan.
17. This truck make \$70,000.00 annual for part time contract job three days a week at trial I will submit evidence of this contract. This truck have be inoperable for more than one years, six months hence loss of wages is \$ 70,000.00 for one years and \$35,000.00. Total wages loss \$105,000.00.
18. For the reasons stated herein I ask for the sum of Total of \$105,000.00 loss wages plus \$26,672.92 for parts and labor all total \$ 131,672.92 and Punitive Damages

WHEREFORE ,From the foregoing ,Plaintiff respectfully ask the court to grant the followings

1. Award the sum of \$131,672,92 parts, labor . Compensatory and incidental damages. Against the first defendant Progressive Insurance
2. Punitive damages against both Defendants
3. General damages/Special damages against PAM Transportation
4. And Such other and further relief to which Plaintiff may justly be entitled to.
5. PLAINTIFF RESERVES THE RIGH TO AMEND, ADD TO THIS COMPLAINT And or further itemized the damages.

September 1st 2017'

Respectfully Submitted.


Phillo Emiabata

508 Evening Grosbeak Dr.
Pflugerville .Texas 78660.

09/01/17